

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark Kutney, AICP, Development Services Director

PREPARED BY: Larry A. Peters, P.E., Town Engineer and Le Nguyen, Assistant Town Engineer (954) 797-1113

SUBJECT Ordinance of the Town of Davie revising Improvement Bonds

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 12, CODE OF ORDINANCES, ENTITLED “LAND DEVELOPMENT CODE”, BY AMENDING ARTICLE XI THEREOF, ENTITLED “DEVELOPMENT REVIEW PROCEDURES”, BY AMENDING DIVISION 3 THEREOF ENTITLED “IMPROVEMENTS”, SEC. 12-329 BY REVISING TEXT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

REPORT IN BRIEF: The Town Engineering Division has determined that it is necessary to clarify and enhance the infrastructure improvement bond requirement. Specific language must be added or eliminated from the existing text in order to reinforce the Town Land Development requirements.

PREVIOUS ACTIONS: None

CONCURRENCES: None

FISCAL IMPACT: None

RECOMMENDATION(S): It is the recommendation of the Town Engineer of Development Services Department that the ordinance be adopted by Town Council. Approved by the Local Planning Agency on 5/10/06.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING CHAPTER 12, CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT CODE", BY AMENDING ARTICLE XI THEREOF, ENTITLED "DEVELOPMENT REVIEW PROCEDURES", BY AMENDING DIVISION 3 THEREOF ENTITLED "IMPROVEMENTS", SEC. 12-329 BY REVISING TEXT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the existing language might have created some controversy over the improvement bond requirement; and

WHEREAS, the Engineering Division desires to create specific language within the existing text for reinforcing the bonding requirement; and

WHEREAS, the Engineering Division desires to eliminate certain language from the existing text for clarification of the bonding requirement.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA:

SECTION 1: That Chapter 12 Code of Ordinances entitled "Land Development Code", is hereby amended by amending Article XI, thereof entitled "Development Review Procedures", by amending Division 3, thereof entitled "Improvements", by modifying section 12-329 to read and provide as follows:

CHAPTER 12 LAND DEVELOPMENT CODE

ARTICLE XI DEVELOPMENT REVIEW PROCEDURES

Sec. 12-329. ~~Alternatives to improvements.~~ Improvement Bonds

~~As an alternative to~~ Prior to issuance of any land development permit, engineering permit or building permit, all required improvements being installed and completed prior to the issuance of a building permit, and provided that all other applicable requirements of this article are met, the applicant ~~may~~ shall provide, in a form acceptable to the council, a cash bond, a surety bond executed by a company authorized to do business in the State of Florida, ~~an agreement between the developer and the appropriate local governmental unit with sufficient assurances that the improvements will be completed,~~ or an irrevocable letter of credit from a Federally insured banking institution, a negotiable certificate of deposit or escrow account in sufficient amount to ensure the completion of all required public or private engineering infrastructure improvements within a reasonable ~~period of timetable~~ in accordance with a development construction schedule approved by the Town Engineer or before issuance of building permits or certificates of occupancy as required by the council and expressed in the bond or other security. The amount of such improvement bonds shall be based on one hundred ten (110) percent of a construction cost estimate certified by a registered engineer in Florida or a certified actual contractual value, whichever is greater.

(A) The council or it's designee is authorized to enforce such bonds, security deposits or other collateral agreements by appropriate legal proceedings. If the required improvements have not been completed within three (3) years or prior to certificate of occupancy, or as otherwise specifically indicated in the terms of such bond or other security, the council or it's designee may thereupon declare the bond or other security to be in default and require all the improvements be installed, regardless of the extent of the development at the time the bond or other security is declared to be in default. In addition to the council's authority to enforce agreements under this section, no certificate of occupancy shall be issued prior to the actual construction and installation of improvements provided for in the agreement, unless expressly authorized in the agreement.

(B) With respect to improvements required by this article, where such improvements are required by and bonded by any other appropriate unit of local government, the council shall not require duplicate bonds or additional bonds unless it determines that the bond or security already required is inadequate to assure completion of such required improvements. Where such improvements are not required by and bonded to any other appropriate unit of government, the security shall be payable to the town.

SECTION 2: That the provisions of this Ordinance shall be codified within the code of Ordinances of the Town of Davie, Florida, and any paragraph or section may be renumbered to conform to the Code of Ordinances.

SECTION 3: If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 4: That all Ordinances or parts of Ordinances in conflict herewith are to the extent of said conflict, hereby repealed.

SECTION 5: This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2006

PASSED ON SECOND READING THIS ____ DAY OF _____, 2006

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS ____ DAY OF _____, 2006

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